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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 ACLU OF SOUTHERN
CALIFORNIA,

16 Plaintiff,

17 v.
18

19 UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

20 Defendant.

No. CV 18-08917 JAK (JEMx)

**ANSWER OF DEFENDANT TO
PLAINTIFF'S COMPLAINT**

Honorable John A. Kronstadt

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24 Defendant United States Department of Homeland Security ("DHS" or
25 "Defendant"), by and through the undersigned counsel, hereby answers the allegations in
26 the Complaint (Docket No. 1) filed by Plaintiff ACLU of Southern California
27 ("Plaintiff") as follows:
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///

1 1. The allegations contained in paragraph 1 of the Complaint constitute
2 Plaintiff's characterization of this action to which no response is required. To the extent
3 a response is deemed required, Defendant denies all of the allegations therein.

4 **Jurisdiction and Venue**

5 2. The allegations contained in paragraph 2 of the Complaint constitute
6 Plaintiff's allegations concerning jurisdiction to which no response is required. To the
7 extent a response is deemed required, Defendant denies all of the allegations therein.

8 3. The allegations contained in paragraph 3 of the Complaint constitute
9 Plaintiff's allegations concerning venue to which no response is required. To the extent
10 a response is deemed required, Defendant denies all of the allegations therein.

11 **Parties**

12 4. Defendant lacks knowledge or information sufficient to form a belief about
13 the truth of the allegations contained in paragraph 4 of the Complaint and on that basis
14 denies them.

15 5. Admit.

16 6. Admit.

17 7. Defendant admits only that ICE has possession, custody, and control of
18 certain records that may be responsive to the FOIA request that is the subject of this
19 action.

20 **Statement of Facts**

21 8. Defendant lacks knowledge or information sufficient to form a belief about
22 the truth of the allegations contained in the first two sentences of paragraph 8 of the
23 Complaint and on that basis denies them. The remainder of paragraph 8 of the
24 Complaint consists of Plaintiff's legal conclusions to which no response is required. To
25 the extent a response is deemed required, Defendant denies all of the remaining
26 allegations in paragraph 8 of the Complaint.

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1 9. Defendant admits that DHS's Privacy Office, ICE, and ICE's Los Angeles
2 Field Office received a Freedom of Information Act ("FOIA") request, dated February
3 12, 2018, from Plaintiff that speaks for itself. Defendant denies the remaining
4 allegations contained in paragraph 9 of the Complaint.

5 10. Defendant admits that the Plaintiff's February 12, 2018 FOIA request
6 speaks for itself.

7 11. Defendant admits that the Plaintiff's February 12, 2018 FOIA request
8 speaks for itself.

9 12. Admit.

10 13. Defendant admits that DHS's Privacy Office sent Plaintiff a letter on
11 February 16, 2018 that speaks for itself.

12 14. Admit.

13 15. Defendant admits that OIG sent Plaintiff a letter on July 3, 2018 that speaks
14 for itself. Defendant denies the remaining allegations contained in paragraph 15 of the
15 Complaint.

16 16. Defendant admits that ICE's Los Angeles Field Office did not send Plaintiff
17 a response to their FOIA request because the ICE FOIA Office located in Washington,
18 D.C. processes FOIA requests on behalf of all field offices, including the Los Angeles
19 Field Office. As admitted above in paragraph 12, the ICE FOIA Office acknowledged
20 Plaintiff's initial request on February 16, 2018, via email, and respectfully refers the
21 Court to the acknowledgement email for a complete and accurate description of its
22 contents.

23 17. Defendant ICE produced records to Plaintiff, sent via mail, on February 28,
24 2019 and March 27, 2019. Defendant further avers that ICE issued a final response to
25 Plaintiff's request on May 28, 2019.

26 18. The allegations contained in paragraph 18 constitute legal conclusions to
27 which no response is required. To the extent a response is deemed required, Defendant
28 denies all of the allegations therein.

Count 1: Violation of FOIA

19. No response is required to paragraph 19 of the Complaint. To the extent a response is deemed required, Defendant incorporates by reference its response to the paragraphs above as if fully stated here.

20. Deny.

21. Deny.

Request for Relief

22. The remainder of the Complaint consists of Plaintiff's Prayer for Relief to which no response is required. To the extent a response is deemed required, the allegations of the prayer for relief are denied. Plaintiff is not entitled to any relief.

23. Any allegation contained in Plaintiff's Complaint that has not been admitted or denied is hereby denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Complaint purports to impose obligations upon Defendant that exceed those imposed by FOIA.

THIRD AFFIRMATIVE DEFENSE

Plaintiff is not entitled to compel the production of records that are exempt from disclosure under FOIA or under other provisions of law, or to compel the production of records that are not subject to FOIA.

FOURTH AFFIRMATIVE DEFENSE

Defendant is not improperly withholding any responsive documents.

FIFTH AFFIRMATIVE DEFENSE

At all times alleged in the Complaint, Defendant acted in good faith, with justification, and pursuant to lawful authority.

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1 WHEREFORE, Defendant prays for judgment dismissing Plaintiff's Complaint,
2 and awarding Defendant its costs and disbursements in this action, and for such other
3 and further relief as the Court may deem just and proper.
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5 Dated: June 26, 2019

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